*** HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA**

+Writ Petition No. 30638 of 1997

%Dated 13.07.2007

M.Narsinga Rao .. Petitioner

And

$ The Special Commissioner,
Land Revenue, A.P. Hyderabad
and two others .. Respondents

! Counsel for Petitioner: Sri M.Rama Rao
Sri N.Venkata Reddy

^Counsel for Respondent Nos.1 and 2: Govt. Pleader for Assignment
Counsel for Respondent No.3 : Sri Nalin Kumar

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? Cases referred

1. 1981 (2) APLJ 158
2. 1998 (3) ALD 652

HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.30638 of 1997

Dated: 13th day of July, 2007

Between:

M. Narsinga Rao .. Petitioner

And

The Special Commissioner, Land Revenue
A.P. Hyderabad
and two others .. Respondents

O R D E R:

This writ petition is filed to quash the order dated 6.10.1997 issued by the 1st respondent-Special Commissioner(Land Revenue).

The petitioner, who is a landless poor person, asserts that he was assigned an extent of Ac.05.00 cents of land in S.No.300 situated in Kangarakala village, Ibrahimpatnam Mandal, Ranga Reddy District, in the year 1961. He personally brought the land under cultivation in the year 1976 and since then, he has been attending to agricultural operations in it. While so, on 24.3.1992, the Revenue Divisional Officer submitted proposals stating that the petitioner's father M.Chandraiah was originally assigned an extent of only Ac.2.38 gts of land, and later, Chandraiah managed to get for his minor son, who is the petitioner herein, an assignment of Ac.05.00 cents, and both of them got assignment certificates for an extent of Ac.02.38 guntas and Ac.05.00 cents situated in S.Nos.300/15 and 300/16 respectively and their names were recorded as pattadars in the year 1961-62 and recommended to the Joint Collector for cancellation of the extra land assigned in favour of Chandraiah and to assign the same in favour of M. Jangaiah, the 3rd respondent herein. After conducting a detailed enquiry, the Joint Collector accepted the recommendations/proposals

made by the Revenue Divisional Officer and passed an order dated 1.10.1994 retaining an extent of only Ac.2.38 guntas in favour of Chandraiah and cancelling the petitioner's holding of an extent of Ac.05.00 cents. Now, the petitioner's grievance is that when he filed an appeal questioning the order, dated 1.10.1994, the 1st respondent-Special Commissioner (Land Revenue) dismissed it canceling the assignment made in favour of the petitioner and reassigning it to the 3rd respondent.

In spite of the fact that notices are served on the respondents, they have not chosen to file counter affidavit.

Heard the learned counsel for both the parties.

The main contention of the learned counsel for the petitioner is that maybe, the father of the petitioner was granted an extent of Ac.2.38 gts., but it does not preclude the petitioner from getting further assignment of Ac.05.00 cents. In fact, the assignment was within the knowledge of the authorities, and according to him, the order of the Joint Collector cancelling the assignment made in the year 1961 in favour of the petitioner on the ground that he was a minor at the relevant point of time, absolutely has no substance because the law does not say that a minor is not entitled for assignment.

Mr. Nalin Kumar, learned counsel appearing for the 3rd respondent, while trying to support the orders passed by the Joint Collector as well as the Special Commissioner, has contended that a person is entitled for grant of assignment in an extent of only Ac.05.00 cents, but as the total assignment made to the petitioner and his father is Ac.7.38 gts which is more than the prescribed extent of Ac.05.00 cents, it necessitated the authorities to cancel the assignment and reassign it in favour of the 3rd respondent.

The Government, with effect from 1st November, 1969, launched a special crash programme for assignment of Government

waste lands to the landless poor persons taking into consideration the prevalence of their poverty in the country as well as the States and the respective State Governments devised assignment policies to see that the landless poor persons are provided with lands for the purpose of doing agriculture or granting house-site pattas. In this context, the Government issued several Government Orders explaining the assignment policy and later revising such policy many a time. In fact, as per the revised assignment policy, the State Government has examined the question of integrating the provisions relating to the assignment of Government lands at present obtaining in Andhra and Telangana areas of the State with a view to evolving a common policy for both the areas and issued certain rules. In exercise of the powers conferred under Section 172 of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 F (for brevity "the Act"), the Governor of Andhra Pradesh made those rules regulating assessment of Government lands in suppression of all previous orders on the subject applicable to Telangana Area.

As per the revised assignment policy enunciated in G.O.Ms.No.1406, dated 25.7.1958, a landless poor person is one who owns not more than one acre of wet or 5 acres of dry land and is also poor. The question whether a person is poor or not is left to the discretion of the assigning authorities. One acre of wet will be treated as 5 acres of dry land. Irrigable dry land shall be treated as wet land. As per Clause IV of the G.O.Ms.No.1406, a landless poor person is entitled to possess only a total extent of either Ac.01.00 cent of wet or Ac.05.00 cents of dry land. Subsequently, this clause was modified in G.O.Ms.No.1724, dated 26.8.1959. According to Clause VI of G.O.Ms.No.1724, an extent of Ac.05.00 cents of dry or Ac.02.50 cents of wet land can be assigned in favour of any individual, and if, for any reason, any person is in excess of more than the extent as stated above, he/she shall be evicted from such land.

Keeping in view the assignment policy and the guidelines issued by the State Government thereafter, if we look into the case on hand, it is clear that originally M.Chandraiah was assigned an extent of Ac.2.38 guntas and his minor son i.e. the petitioner herein, was assigned an extent of Ac.05.00 cents. No doubt as contended by Sri Rama Rao, learned counsel for the petitioner, there is no prohibition of assignment of the land in favour of two members of the family, but it does not mean that in the very same family they can get assignment of any extent more than Ac.05.00 cents of dry land. If the extent is restricted to Ac.05.00 cents, it does not matter whether the assignment is in favour of one, two or three members of the same family. In the case on hand, evidently as stated supra, after Chandraiah was assigned Ac.2.38 gts, his minor son i.e. the petitioner herein was assigned Ac.05.00 cents, both put together, comes to Ac.7.38 gts which is far excessive of Ac.05.00 cents of dry land as mentioned in the G.O.Ms.1724, dated 26.8.1959. Hence, this Court has no hesitation to come to the conclusion that an error had definitely crept in the process of assignment of an extent of Ac.7.38 gts in favour of the petitioner and his father as early as in the year 1961.

However, for the lapses on the part of the authorities, in my considered view, the petitioner shall not suffer and become a scape-goat. It is not as though the petitioner or his father had suppressed anything and made the authorities to grant assignment in their favour. By the time the assignment was made, it was within the knowledge of the authorities that an extent of Ac.2.38 guntas was assigned in favour of the petitioner's father and another extent of Ac.05.00 cents in favour of the petitioner also, and thus, made the petitioner and his father enjoy an extent of Ac.7.38 gts for more than 32 years prior to initiation of the proceedings. Further, allowing them to be in possession of these lands right from 1961 and initiating proceedings for the first time in

1994 can definitely be said to be beyond comprehension. If a mistake has crept in, the authorities are duty bound to rectify it at the earliest, but not after a long lapse of time.

The law on this aspect is very clear. In the year 1981, this Court took the view that the exercise of revisional jurisdiction *suo motu* must be exercised to advance the cause of justice and not to upset settled rights. Simply because no period of limitation is prescribed under the Act or the Rules made thereunder for the exercise of *suo motu* power of revision, the exercise cannot be impugned on the ground that it is barred by limitation. Merely because a *suo motu* power is vested in any authority to revise the orders of the subordinate authorities, such power cannot be exercised arbitrarily but shall be exercised within a reasonable time.

In this context, it may be relevant to refer to the judgment of this Court in **A.Kodanda Rao Vs. Govt. of A.P.**[1] wherein it is held to the following extent:

> *"There can be no doubt that where no period of limitation is prescribed by the Act or the Rules made thereunder for the exercise of the suo motu power of revision, the exercise of that power cannot be impugned on the ground that it is barred by limitation. No period of limitation can be imposed otherwise than by statute or the rules made thereunder. But nonetheless, merely because power is vested in an authority to revise the orders of the subordinate authorities suo motu, the power has to be exercised within a reasonable time. In cases where no period of limitation is prescribed under the statute or the rules made thereunder for exercise of revisional powers suo motu the question for consideration is not whether the exercise of the power is barred by limitation for in the absence of a period of limitation prescribed under the Act, the question of bar of limitation cannot arise, it is a question of the reasonable period of limitation within which that power should be exercised where the question is one exercising that power within a reasonable time and what is reasonable period would undoubtedly be dependent upon the facts and circumstances of each case."*

In another judgment reported in **Gudepu Sailoo and Others Vs. Government of Andhra Pradesh**[2] a learned single Judge of this Court, clearly observed that powers of revision can be exercised by the Government within a reasonable time i.e. within one year only.

For the aforementioned reasons, this Court is of the view that though the assignment of an extent of Ac.7.38 guntas of land made in favour of the petitioner and his father is contrary to the revised policy, but making them to enjoy the property all these years i.e. right from 1961 to 1994 and now exercising the powers under Section 166(b) of the Act and cancelling the extent over and above Ac.05.00 cents can definitely be said to be bad. Hence, the order dated 6.10.1997 passed by the 1st respondent-Special Commissioner(Land Revenue) is liable to set aside.

In the result, the writ petition is allowed quashing the order dated 6.10.1997 passed by the 1st respondent-Special Commissioner. No costs.

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13.07.2007

Note: L.R. Copy to be marked
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[1] 1981(2) APLJ 158
[2] 1998 (3) ALD 652